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TITLE 22

45-DAY PUBLIC NOTICE AND COMMENT PERIOD

PROPOSED REGULATIONS

LAB PACK MANAGEMENT AT SCHOOLS HAZARDOUS WASTE COLLECTION, CONSOLIDATION AND ACCUMULATION FACILITIES (SHWCCAFs) UNDER PERMIT BY RULE (PBR)

Department of Toxic Substances Control Reference Number: R-02-11
Office of Administrative Law Notice File Number: Z-03-0422-02

NOTICE IS HEREBY GIVEN that the Department of Toxic Substances Control (the Department) proposes to amend California Code of Regulations, title 22, section 67450.42(c) to allow, under specified conditions, science laboratory waste lab packs to be reopened and repackaged at a SHWCCAF.

PUBLIC HEARING AND WRITTEN COMMENT PERIOD

The Department will hold a public hearing on the proposed regulations at 10:00 a.m. on **June 16, 2003** in the **Central Valley Auditorium**, 2nd Floor, 1001 "I" Street, Sacramento, at which time any person may present statements or arguments orally or in writing, relevant to this proposal. Please submit written comments to the contact person listed at the end of this notice. Written comments on the rulemaking submitted no later than 5:00 p.m. on **June 16, 2003** will be considered.

Representatives of the Department will preside at the hearing. Persons who wish to speak are requested to register before the hearing. Pre-hearing registration will be conducted at the location of the hearing from 9:30 a.m. to 10:00 a.m. Registered persons will be heard in the order of their registration. Any other person wishing to speak at the hearing will be afforded an opportunity after the registered persons have been heard.

Due to enhanced security precautions at the Cal/EPA Headquarters Building located at 1001 I Street, Sacramento, all visitors are required to sign in prior to attending any meeting. Sign-in and badge issuance occur in the Visitor and Environmental Services Center. This Center is located just inside and to the left of the building's public

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entrance. Depending on their destination and the building security level, visitors may be asked to show valid picture identification. Valid picture identification can take the form of a current drivers license, military identification card, or state or federal identification cards. Depending on the size and number of meetings scheduled on any given day, the security check-in could take from three to fifteen minutes. Please allow adequate time to sign in before being directed to your meeting.

AUTHORITY AND REFERENCE

These regulations are being proposed under the following authorities:

Health and Safety Code section 25150. This section grants the Department authority to adopt standards dealing with the management of hazardous waste.

Health and Safety Code section 25200. This section authorizes the Department to impose conditions on hazardous waste facilities permits.

These regulations implement, interpret, or make specific the following:

Health and Safety Code section 25150. This section grants the Department authority to adopt standards dealing with the management of hazardous waste.

Health and Safety Code section 25200. This section authorizes the Department to impose conditions on hazardous waste facilities permits.

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

Existing Law

In California, offsite storage of hazardous waste is a regulated activity that requires authorization under the Department's five-tiered permit program for hazardous waste treatment or storage. Prior to 2002, the only tiered permitting option available for offsite collection and storage of hazardous wastes generated by K – 12 schools was the Standardized Permit. Standardized Permit requirements are generally intended to address higher-risk hazardous waste management activities, such as those commonly found at commercial facilities that treat or store large volumes of hazardous wastes. In addition to facility operation requirements, the Standardized Permit also requires a detailed review and environmental impact assessment of the proposed facility operation prior to issuance of a permit.

However, while the amount and specific types of waste generated at each school will vary according to school size and curriculum, the types of hazardous waste generated by the routine operation and maintenance of K – 12 schools is very similar to the types and amounts of wastes collected at household hazardous waste collection facilities permitted under Permit by Rule (PBR). Therefore, effective January 30, 2002, the Department instituted new regulations¹ that provide school districts with a PBR authorization alternative to the Standardized Permit for offsite collection, consolidation, and accumulation of hazardous wastes generated by the routine operation and maintenance of K – 12 schools. These offsite PBR facilities are known as Schools Hazardous Waste Collection, Consolidation, and Accumulation Facilities (SHWCCAFs).

The existing PBR authorization requirements for SHWCCAFs include waste management, transport, and facility operation restrictions and protections. Specifically, under the existing SHWCCAF PBR regulations, non-reactive (not shock-sensitive or explosive) hazardous wastes generated from K – 12 school science laboratories (including chemistry, physics, and biology classes) may be managed at a SHWCCAF only if certain conditions are met. One of these conditions requires that the wastes be lab packed at the generating school prior to transport to the SHWCCAF. This condition also stipulates that these lab packs cannot be reopened during transportation to the SHWCCAF, or at the SHWCCAF.

Policy Statement Overview

The issue of concern in the existing SHWCCAF PBR regulations is the requirement that school science laboratory waste lab packs may not be reopened at the SHWCCAF. This provision has been identified as an unnecessary and burdensome requirement that prevents school districts from repackaging partially filled lab packs at the SHWCCAF for more efficient and economic management and transport of the wastes.

Changing the existing requirements to allow school science laboratory waste lab packs to be reopened and repackaged at the SHWCCAFs will help school districts save money by reducing packing material and shipping costs for transport and disposal of lab packs that are only partially filled with waste. In addition, allowing repackaging of lab packs at the SHWCCAF will help divert extra volumes of waste (in the form of multiple, partially empty lab packs) from hazardous waste disposal facilities, thereby helping to preserve hazardous waste disposal facility capacity in California, and promoting school district pollution prevention/source reduction practices.

¹ Cal. Code Regs., tit. 22, div. 4.5, ch. 45, art. 5, commencing with sec. 67450.40, et seq.

Therefore, with the proposed regulations, the Department intends to encourage both pollution prevention and source reduction by school districts, as well as school district use of SHWCCAFs, by allowing more efficient management of lab packed school hazardous wastes.

Proposed Regulations

The proposed regulations would allow, under specified conditions, school science laboratory waste lab packs to be reopened and repackaged as necessary at the SHWCCAF to provide for efficient and economic, as well as safe management and transport of the wastes to authorized recycling or disposal facilities.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

The Department has found this rulemaking project to be exempt under CEQA. A draft of the Notice of Exemption (NOE) is available for review with the rulemaking file. The NOE will be filed with the State Clearinghouse when the regulations are adopted.

PEER REVIEW

Peer review according to the provisions of Health and Safety code section 57004 is not required because the proposed regulations are administrative standards for which the underlying scientific principles and decision tools have already been established.

BUSINESS REPORT

The Department has determined that this rulemaking will not require businesses to write a new report, as defined by Government Code section 11346.3(c).

FISCAL IMPACT ESTIMATES:

Mandates on Local Agencies and School Districts: The Department has made a preliminary determination that adoption of these regulations will create no new local mandates.

Estimate of Potential Cost or Savings to Local Agencies Subject to

Reimbursement: The Department has made a preliminary determination that adoption of these regulations will not impose a local mandate or result in costs subject to reimbursement pursuant to part 7 of division 4, commencing with section 17500, of the Government Code or other nondiscretionary costs or savings to local agencies.

Cost or Savings to Any State Agency: The Department has made a preliminary determination that the proposed regulations will have no impact on State revenue or costs.

Cost or Savings in Federal Funding to the State: The Department has made a preliminary determination that the proposed regulations will have no impact on Federal revenue or costs.

Effect on Housing Costs: The Department has made an initial determination that there will be no impact on housing costs.

Cost Impacts on Representative Private Persons or Businesses:

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant Statewide Adverse Economic Impact on Businesses:

The Department has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability to compete with businesses in other states.

Assessment Statement:

- (A) **Creation or elimination of jobs within California** – The Department has made a preliminary determination that no jobs will be created or eliminated in California as a result of the proposed regulations.
- (B) **Creation of new businesses or the elimination of existing businesses within California** – The Department has made a preliminary determination that no businesses will be created or eliminated in California as a result of the proposed regulations.
- (C) **Expansion of businesses currently doing business in California** – The Department has made a preliminary determination that no businesses in California will be expanded as a result of the proposed regulations.

Effect on Small Businesses:

The Department has determined that provisions of this rulemaking may have an effect on small businesses.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The Department invites interested persons to present arguments, with respect to the various options, at the scheduled hearing, or during the written comment period.

AVAILABILITY OF TEXT OF REGULATIONS AND STATEMENT OF REASONS

Copies of the Notice, Initial Statement of Reasons and the text of the proposed regulations are posted to the Department's Internet site at <http://www.dtsc.ca.gov> or may be obtained from Ms. Joan Ferber of the Department's Environmental Analysis and Regulations Section as specified below. The information upon which the Department relied is also available at the address listed below.

POST-HEARING CHANGES

After the close of the comment period, the Department may adopt the proposed regulations. If substantial changes are made, the modified text will be made available for comment for at least 15 days prior to adoption. Only persons who request the specific proposed regulations, attend the hearing, or provide written comments on these specific regulations will be sent a copy of the modified text, if substantive changes are made.

Once regulations have been adopted, the Department prepares a Final Statement of Reasons which updates the Initial Statement of Reasons, summarizes how the Department addressed comments and includes other materials, as required by Government Code section 11346.9. Copies of the Final Statement of Reasons may be obtained from Ms. Joan Ferber at the address listed below. A copy of the Final Statement of Reasons will also be posted on the Department's Internet site at <http://www.dtsc.ca.gov>, along with the date the rulemaking is filed with the Secretary of State and the effective date of the regulations.

CONTACT PERSONS

Inquiries regarding technical aspects of the proposed regulations or CEQA documents may be directed to Ms. Cheryl Closson at (916) 324-6564 or, if unavailable, Ms. Sonia Low at (916) 323-9757. However, such oral inquiries are not part of the rulemaking record.

Statements, arguments or contentions regarding rulemaking and/or supporting documents must be submitted in writing or may be presented orally or in writing at the public hearing in order for them to be considered by the Department before it adopts, amends or repeals these regulations. To be included in this regulation package's mailing list, and to receive updates of this rulemaking, please leave a message on the Department's mailing list phone line at (916) 324-9933 or e-mail: regs@dtsc.ca.gov.

Please direct all written comments, procedural inquiries and requests for documents by mail, e-mail or fax to:

Ms. Joan Ferber, Regulations Coordinator
Environmental Analysis and Regulations Section
Department of Toxic Substances Control

Mailing Address: P.O. Box 806
Sacramento, CA 95812-0806

E-mail Address: regs@dtsc.ca.gov

Fax Number: (916) 323-3215

Ms. Ferber's phone number is (916) 322-6409. If Ms Ferber is unavailable, please call Ms. Nicole Sotak at (916) 327-4508 or Mr. James McRitchie at (916) 327-8642.

Dated: 4/22/03

Original Signed By: _____
James McRitchie, Chief
Office of Environmental Analysis,
Regulations and Audits